## BARNARD LOOP & MCCORMACK

RECEIVED CENTRAL FAX CENTER

P.O. Box 58888 Seattle, WA 98138-1888 thomas@seattlepatentlaw.com

OCT 1 2 2004

T: 206.381.3100 F: 206.381.3101

Thomas E. Loop
Attomey at Law

To:	Examiner Jonathan Crepeau at U.S. Patent Office	the From: Thomas E. Loop		
Fax:	571-273-1299	Pages: 3 (Including cover shee		(Including cover sheet)
Phone:	<del></del>	Date:	Octob	er 12, 2004
Re:	U.S. Application No. 10/613,784 Terminal Disclaimer Applicant: Neah Power Systems, Ir	Ce:		
	☐ Urgent ☐ For Review ☐ Please Comment ☐ Please Reply			
	Hard Copy:	(to follow)	,	(retained)

• Comments: This fax may contain confidential information which is legally privileged. The information is solely for the use of the addressee named above. If you are not the intended recipient, any disclosure, copying, distribution or other use of the contents of this information is strictly prohibited. If you have received this fax in error, please notify us by return call and destroy this fax. Thank you.

I hereby certify that on the date specified below, this correspondence is being deposited via facsimile (571) 273-1299 to Examiner Jonathan Crepeau at the U.S. Patent Office.

CENTRAL FAX CENT

OCT 1 2 2004

Date

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No.:

10/613,784

Confirmation No.:

7001

Applicant:

NEAH POWER SYSTEMS, INC.

Filed:

July 7, 2003

Title:

Fuel Cells Having Silicon Substrates and/or Sol-Gel Derived Support

Structures

TC/A.U.:

1746

Examiner:

Jonathan Crepeau

Docket No.:

690089.401D1

Cust. No.:

31740

Mail Stop Patent Ext. Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450

## TERMINAL DISCLAIMER

Sir:

The owner, Neah Power Systems, Inc., of 100% interest in the present application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the present application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 to 156 and 173 as shortened by any terminal disclaimer filed prior to the grant of any patent granted on parent Application No. 09/715,830, filed on November 17, 2000 (now U.S. Patent No. 6,641,948). The owner hereby agrees that any patent so granted on the present application shall be enforceable only for and during such period that it and any patents granted on the other application are commonly owned. This agreement runs with any patents granted on the present application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the present application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 to 156 and 173 of any patent granted on the other application, as shortened by any terminal disclaimer filed prior to the patent grant, in the event that any such granted patent: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as shortened by any terminal disclaimer filed prior to its grant.

The undersigned is an attorney of record. Please charge any deficiency in payment and/or credit any overpayment in fees to Deposit Account No. 02-0915.

Respectfully submitted,

BARNARD, LOOP & McCORMACK LLP

Thomas E. Loop

Registration No. 42,810

P.O. Box 58888

Seattle, WA 98138-1888

206-381-3100 phone

206-381-3101 fax